THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.16326 OF 1999

DATE: 28th September 2006

Between:

1. M.S.R.Murthy, son of Venkatramaiah,
   aged 68 years, resident of Velpucherla,
   Musuluru Mandal, Krishna District and 17 others.

.... Petitioners.

And

1. Government of Andhra Pradesh,
   reptd. By its Principal Secretary,
   Irrigation & Command Area Development Department,
   Secretariat Buildings, Hyderabad, and 5 others.

.... Respondents.

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ORDER:

It appears that the petitioners are all ayacutdars having lands in various extents under Koppaka Head Channel under Tammileru River. While so, the respondents started construction of Rockfill Dam on Tammileru near Lopudi village, Krishna District, pursuant to G.O.Rt.No.1003, Irrigation & CAD Department, dated 19.8.1998, and in the light of the subsequent instructions issued by the Chief Engineer, Medium Irrigation-respondent No.2. Earlier, when a dispute was raised as to raising of the Rockfill Dam, a committee was constituted, headed by Superintending Engineer. The committee seems to have recommended, on the basis of inspection conducted by it, for restricting the top of the dam to average bed level of Tammileru at Gollapudi Supply Channel point

to stop the erosion of bed at top level at plus 58.86 M i.e., average bed level. Since this recommendation was not properly made the petitioners having aggrieved by the same, they made a representation to the Hon'ble Chief Minister on 28.11.1998. While so, the government forwarded the said representation directing the Superintending Engineer, Irrigation Circle, Eluru to get the Tammileru system inspected by the Executive Engineer, Godavari Special Division, for verifying the records. The Chief Engineer addressed a letter to the Superintending Engineer-respondent No.4 to obtain undertakings from the ryots of both sides in Krishna and West Godavari districts with regard to construction of Rockfill bed dam on Tammileru river near Lopudi village. Thereafter, certain steps were taken in connection with the construction of Rockfill Dam on Tammileru near Lopudi village. But the Chief Engineer-respondent No.2 acted contrary to the discussions and the decisions taken. Both sides never gave any such undertaking so far. In spite of not having undertakings, there was no justification for the Chief Engineer to come to the conclusion to take temporary and permanent measures on this aspect and on the basis of the same, the impugned G.O. has been issued. Therefore, the same is arbitrary and illegal and if the same is implemented the interest of the petitioners would be defeated.

2. A detailed counter affidavit has been filed on behalf of the respondents. At para 13 of the counter-affidavit it is stated that the second respondent issued instructions to proceed with the work is not correct. The work has been stopped. The first phase work of providing Rockfill bed dam for a length of 40 M from open

head channel was started on 15.5.1998. The work was stopped on the objections raised by lower down ryots on 27.5.1998 itself and the matter was referred by the Government and the team headed by the Superintending Enegineer, Investigation, inspected the site and submitted a report to the Government. Based on which G.O.Rt.No.1003 dated 19.8.1998 was issued. In accordance with the said G.O., work was started on 02.5.1999 and continued upto 05.5.1999. Again the work was stopped on 05.5.1999 as per the instructions of the second respondent due to the disputes between the parties on the issue.

3. As seen from the counter, as of now, the work was stopped due to disputes between the parties concerned. Under those circumstances, the writ petition is disposed of directing the respondents to consider the objections of the petitioners as well as other affected parties and proceed with the matter further, if the construction has not already been completed. No costs.

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C.V.RAMULU, J.

Date: 28th September 2006.
BSB